

ROUNDUP FUNDING, LLC

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October 20, 2008

The Honorable Stephen C. Robinson
United States District Court
For the Southern District of New York
300 Quarropas Street, Room 633
White Plains, NY 10601

MEMO ENDORSEMENT

Re: *Simmons v. Roundup Funding, LLC and Malen & Associates.*
Case number 08-6263

Dear Judge Robinson:

I am the attorney for Defendant, Roundup Funding, LLC. Per the Court's rules and practices, I conferred with Plaintiff's attorney, Shmuel Klein, on October 8, 2008 via email to propose a joint briefing schedule on Roundup's Motion to Dismiss/Transfer recently filed on behalf of my client.

I proposed to allow Mr. Klein until October 24, 2008 to oppose the Motion to Dismiss/Transfer and Roundup until November 14, 2008 to reply. Instead of responding to my proposed briefing schedule, Mr. Klein filed his opposition on October 17, 2008. Based upon Mr. Klein's silence, the deadline for Roundup to file its reply is November 14, 2008.

On or about October 8, 2008, Mr. Mahler, who is the attorney for Defendant, Malen & Associates, and I informed Mr. Klein that he has not complied with the Court's rules and practices on filing the Motion to Certify. We requested that he withdraw the Motion to Certify by October 15, 2008. Mr. Klein refuses to withdraw the Motion to Certify and refuses to request a pre motion conference. A true and correct copy of the email correspondence is attached herein.

Moreover, Mr. Klein has not contacted either Mr. Mahler or me for a briefing schedule on the Motion to Certify.

Both Defendants respectfully requests the Court to strike the Motion to Certify for failure to comply with the Court's rules and practices, or in the alternative stay the Motion to Certify until the resolution of the two Motions to Dismiss before the Court.

The defendants should submit an Affidavit setting out the facts of this matter and the Rules of this Court they believe were violated. Such Affidavits must be filed by Nov. 7, 2008. The plaintiffs will have until November 17, 2008 to respond.

SO ORDERED

Stephen C. Robinson
STEPHEN C. ROBINSON
UNITED STATES DISTRICT JUDGE

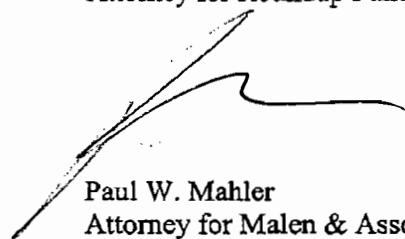
10/21/08

Please let Mr. Mahler or me know if we can be of any assistance.

Regards,



Linh K. Tran
Attorney for Roundup Funding, LLC



Paul W. Mahler
Attorney for Malen & Associates

Cc: Shmuel Klein